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To The citizens of Massachusetts:

Many of you have heard me speak of the fraud tax -- the hidden cost honest men and women pay in higher taxes, higher insurance premiums and higher costs for goods and services as a consequence of white collar theft. Reducing or eliminating this tax, through the aggressive enforcement of new laws against white collar criminals, has been a priority of my administration since I took office in 1990.

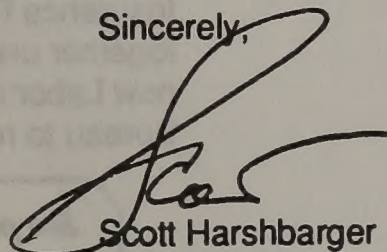
I am pleased to report that we are making great strides in many areas, including automobile insurance and workers compensation. This year we witnessed an unprecedented 16.5 percent reduction in workers' compensation insurance premiums as well as an average decrease of six percent for auto insurance rates. These reductions can be traced back to new reforms combined with the strict enforcement of laws which punish such fraudulent activity.

Over the last four years, my staff has prosecuted more than 120 individuals for public corruption offenses and over 125 individuals and businesses for economic crimes which include tax evasion, bank fraud, auto and health insurance fraud, Medicaid fraud and embezzlement by stockbrokers, board members and accountants. My commitment to combatting these types of criminal activity is strong. Be it a doctor who overbills the Medicaid system, a bank executive who issues fraudulent loans, a government employee who steals public funds, or an individual who engages in larceny or insurance fraud, I am determined to bring these white collar criminals to justice.

Last April, I announced the creation of a new bureau designated specifically to fight white collar fraud: The Business and Labor Protection Bureau. The new bureau combines divisions within the office that have shared goals and works to stop the fraudulent activities of businesses and individuals alike. It does so by tapping legal and investigative resources from divisions experienced in the areas of wage enforcement, workers' compensation, Medicaid fraud control, and insurance fraud. Please see page two for further information on this exciting, new venture.

I hope you will find this newsletter useful and informative. The pages within have been written to inform you of noteworthy cases, as well as provide you with an update on pending legislation, legal advisories and helpful tips to fight fraud. Please feel free to write my office with your comments or inquiries. We welcome your input and thank you for your continued efforts to combat fraud crimes.

Sincerely,



Scott Harshbarger



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Harshbarger's New Business and Labor Protection Bureau Coordinates AGO Resources To Fight Fraud

On April 1, 1995, Attorney General Harshbarger announced the creation of the Business and Labor Protection Bureau. The new bureau is comprised of the Fair Labor and Business Practices Division, the Division of Employment Training, the Medicaid Fraud Control Unit, and the Insurance

Fraud Division. The bureau brings together these divisions because they share dual criminal and civil enforcement opportunities, and, more often than not, one

person or corporation commits several crimes that fall into the jurisdiction of more than one division. The divisions also interact extensively with public and private sector insurers, providers, employers and labor organizations. Stuart Rossman, previously the chief of the Trial Division was named to lead the Business and Labor Protection Bureau (BLPB).

The BLPB will, among many responsibilities, coordinate the resources of these divisions to

target fraudulent business activities. Attorney General Harshbarger has referred to the "fraud tax" as the increased costs to businesses, insurance policy holders, and taxpayers created by those who break the law. The unscrupulous activity that fuels this tax includes

insurance fraud, failure to pay mandated wages, health care fraud and so on.

All too often, the reality is that if a firm is underpaying its workers, it may also be underpaying its workers' compen-

sation premiums, and its payroll taxes. The skirting of insurance premiums drives these costs up for the majority of businesses that do play by the rules. Investigations of fraud in one area will provoke further examinations of potential fraud at all angles. Therefore, if a complaint is received by the bureau for a prevailing wage violation, the investigation will include a thorough review of all of the payroll and financial records to detect tax and insurance fraud as well.

The skirting of insurance premiums drives costs up for the majority of businesses who play by the rules.

Framingham Firm Indicted for 33 Counts of Violating State Labor Laws

Indictments result of new Bureau's capacity to tap pooled resources

Eastern Contractors of Framingham, a contracting company known for its work on public school projects, was indicted last spring on 33 counts of violating state labor laws. The charges ranged from failure to pay the prevailing wage to failure to pay overtime compensation to failure to pay unemployment taxes. They also included workers' compensation premium avoidance, failure to provide true and accurate payroll records to the Commonwealth, and the misclassification of employees.

Indictments allege that Eastern Contractors, its subsidiary, East Coast Construction, Inc., and its president hired workers for five public works projects between 1992 and 1994 but did not classify them as company employees. Instead, the company misused the independent contractor classification to avoid paying insurance premiums and taxes. As a result, the company allegedly did not pay approximately \$1 million in workers' compensation and unemployment tax.

The indictments follow a year-long investigation which was prompted by workers seeking to collect their overtime pay.

The AG's Division of Employment and Training, The Fair Labor and Business Protection Division and the Insurance Fraud Division all worked together under the auspices of the new Labor and Business Protection Bureau to resolve this case.

See page 9 for additional wage enforcement cases.

Trained Accountants Join Investigative Staff of Bureau of Business and Labor Protection

The Business and Labor Protection Bureau is pleased to have two trained accountants join its staff to assist with financial investigations targeting fraud and wage violations in public construction projects. These professionals analyze spreadsheets, financial records and tax filings of businesses and individuals under investigation by bureau AAG's and inspectors. Prosecutions and investigations undertaken are greatly enhanced by this new capacity.

The Office's recent financial investigations have helped to identify common trends occurring among unscrupulous contractors in the construction industry. Typically, the investigations start with a simple complaint that an individual worker was not paid overtime, not paid at all, or was not paid the prevailing wage on a public job.

After procuring and analyzing the payroll records, it is often revealed that the original complaint is merely the tip of the iceberg. Investigations of companies avoiding the prevailing wage often lead to disclosures that the employer is paying wages under the table, underpaying workers' compensation, paying employees as independent contractors (1099 IRS forms), and underpaying unemployment taxes and other payroll taxes.

The underpayment of taxes and premiums does not save money for the municipality or its taxpayers, but instead diverts these public funds right into the contractors' pockets. The fraud committed drives up insurance premiums and taxes for the vast majority of legitimate firms who play by the rules.

The investigators observe the increased sophistication of these financial crimes with the use of computer spreadsheets and other business related software. This new, readily available capacity enables companies to forecast savings based on hypothetical scenarios involving fraudulent business activities. The special experience and skills of our financial investigators are an enormous help in our efforts to combat these innovative efforts. For further information, contact: Ken Craig or Scott Faragi at the Attorney General's Office at 727-2200.

Financial investigations have helped to identify common trends occurring among unscrupulous contractors...

Public Bidding and Prevailing Wage Workshop

The Attorney General's Office hosted a Public Bidding and Prevailing Wage Workshop for Awarding Authorities at the Springfield Technical Community College in May of 1995. The Workshop is part of the Fair Labor and Business Practices Division's ongoing outreach efforts to provide local and state officials with the information and resources they need to comply with the public bidding and prevailing wage laws. The legislature transferred the enforcement of the wage and hour laws to the Attorney General in September of 1993.

Attorney General Harshbarger presented opening remarks to over 100 municipal and state procurement officers, town managers, and school system business managers from Berkshire, Franklin, Hampshire and Hampden Counties. The topics covered included bid protests, certified weekly payrolls, prevailing wage responsibilities and hearings, duties of a clerk of the works, official advisories and proposed legislation. Attendees were provided with written materials outlining the steps to compliance.

The conference received very positive evaluations and encouraged the office to repeat the workshop in other parts of Massachusetts. The next regional conference for awarding authorities will be held later this month in Worcester, MA. For further information, or to purchase copies of the materials, contact: Donna Woods at 727-2200.

LEGISLATIVE UPDATE

The **Medicaid Fraud Control Unit** is actively seeking legislative changes to enhance its enforcement capabilities in the Medicaid fraud and abuse arena. In addition to filing legislation that would increase the penalties upon conviction for Medicaid fraud, Attorney General Harshbarger has also sought forfeiture of personal assets upon conviction for Medicaid fraud as well as frauds committed upon private health care insurance plans.

Additional Medicaid fraud legislation to be filed would make it a criminal offense to intentionally destroy records for the purpose of obstructing a criminal investigation into the billing and reimbursement practices of Medicaid providers.

The **Fair Labor and Business Practices Division's** main legislative initiative, *An Act to Enhance Wage Enforcement*, passed the Senate and now awaits action in the House. The bill, which was co-sponsored by Senator Thomas Birmingham and Rep. Dan Bosley, would increase criminal penalties and establish a uniform civil citation process for violations of the following wage and hour laws:

- ♦ nonpayment of wages
- ♦ prevailing wages
- ♦ overtime
- ♦ misclassification of employees minimum wage

The civil process authority would allow the Attorney General, who testified at a hearing last spring

in support of the bill, to expedite cases by issuing warnings and monetary fines for offenses of the wage laws. With an open caseload of over four thousand matters, a process which would enable the AG to cite individuals and companies for violations and impose monetary fines is essential. Currently, the only option available to the office is a full scale criminal prosecution that applies a higher standard of review and often takes months to properly complete.

The civil citation concept has received the support of both organized labor and contractor groups. The AFL-CIO, and Massachusetts Building Trades were joined by the Associated General Contractors and the Construction Industries of Massachusetts at a public hearing in announcing their support for the civil process.

PREVAILING WAGE LAW ADVISORY

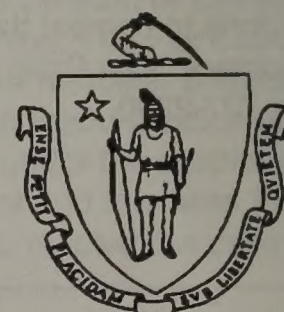
The prevailing wage law applies not only to public buildings and public works projects (e.g. new construction, renovation, repair, road or highway work, maintenance, the rental of equipment, moving office furniture, cleaning state office buildings, trash hauling and school bus transportation) but also to certain work done preliminary to the construction of public works. Such work includes, but is not limited to, soil explorations, test borings and demolition of structures incidental to site clearance and right of way clearance, and the demolition of any building or other structure ordered by a public authority for the preservation of public health or public safety. G.L. c. 149, sec. 27D.

The prevailing wage law applies to all public works and public building projects, regardless of the cost or size of the project. There exists no monetary threshold.

The minimum prevailing wage must be paid to regular employees of the Commonwealth or of a county, town or district, when such employees are employed in the construction, addition to or alteration of public buildings for which special appropriations of more than one thousand dollars are provided. G.L. c. 149, sec. 26.

Although enforcement authority with respect to violations of the prevailing wage laws has been legislatively transferred to the

office of the Attorney General, the Department of Labor and Industries remains charged with issuing wage schedules and job classifications, and making determinations on the applicability of the prevailing wage. Appeals of wage determinations or classifications should be made to the Department.



MEDICAID FRAUD

An estimated 10% of the annual \$3.4 billion federal Medicaid budget is consumed by provider waste, fraud and abuse. The Massachusetts Attorney General's Medicaid Fraud Control Unit (MFCU) recovered \$24 million over the last four years in improper charges to Medicaid.

CAREMARK To Pay \$44.5 Million in Nationwide Settlement; Massachusetts to receive \$1.36 million

The California health care company, Caremark, Inc., has agreed to repay \$1.36 million to the Commonwealth for alleged Medicaid abuses. The amount is part of a nationwide settlement worth \$44.5 million. The company, which has offices in Massachusetts, has been the subject of civil, administrative and criminal investigations on both the state and federal level into its business practices in providing services and therapies to Medicaid and Medicare recipients. Caremark delivers medicine and nutrition to patients in a home-setting through the use of tubes and other medical equipment.

The \$44.5 million agreement announced today settles state Medicaid fraud claims raised by the investigations and concludes AG Harshbarger's investigation into the home infusion, growth hormone hemophilic and oncology lines of Caremark's business in Massachusetts.

In June, Caremark pled guilty to federal mail fraud charges for entering into illegal contracts with physicians by paying them to refer Medicaid patients to use Caremark's products and paid the federal government \$161 million in civil damages and criminal fines. Under both state and federal law, it is illegal to compensate physicians for the referral of Medicaid patients.

AG's Medicaid Fraud Control Unit Applies for Justice Department-funded Fraud Unit; New units will crack down on private insurance fraud

Attorney General Harshbarger's Medicaid Fraud Control Unit has applied for a Justice Department grant to fund a state-wide fraud unit targeting the prosecution of private health insurance fraud.

The bid is in response to the Justice Department's decision to fund three state fraud units specifically designed to crack down on private insurance fraud. The new units will function in a similar fashion to Medicaid Fraud Control Units, only they will investigate and prosecute non-Medicare and Medicaid health fraud cases. The Justice Department will award three \$200,000 grants to create the state units and will also give \$250,000 to the National Association of Attorney's General to provide technical assistance to the states that receive the grants.

The units will help states move beyond the distinction between public and private dollars lost to healthcare fraud, allowing for a much broader state enforcement effort as regards health care fraud. A Massachusetts unit would work with existing law enforcement efforts to combine the utilization review and anti-fraud resources of private insurance companies, the Blues and the HMOs in Massachusetts with the state-wide criminal prosecutorial capability of the Attorney General. The concept is to form a comprehensive, multi-jurisdictional approach to the detection, investigation and prosecution of fraudulent practitioners which complements and rounds out the current efforts by the state's Medicaid Fraud Control Unit.

The Justice Department's decisions are due out later this month.

Dentist Settles \$347,000 Fraud Suit with AG's Medicaid Fraud Control Unit

In April, a Roxbury dentist agreed to pay nearly \$350,000 in restitution as part of a settlement for his alleged improper billing of Medicaid patients for dental procedures.

The consent judgment concludes a year-long audit and investigation into the dentist's oral surgery practice and his alleged practice of billing Medicaid patients for

anesthesia, x-rays, alveoplasty procedures and emergency services not approved by the federal program.

The dentist, who receives 90 percent of his business from Medicaid patients, denied any wrongdoing but agreed to a strict compliance program and the restitution payment.

Brookline Physician Arrested for Alleged Drug Violations

In April, a Brookline psychiatric physician was arrested and charged with five counts of violating the state's controlled substances laws. And, in August, the defendant was indicted on seventy-nine counts of Medicaid fraud and state drug law violations. The doctor was charged with prescribing drugs to Medicaid patients for non-medical reasons.

The investigation stemmed from a series of complaints to police by residents and businesses about patient traffic at and near Rowland's offices. Investigators are also concentrating on complaints received relating to the deaths of two of the physician's patients, one of whom allegedly died of a drug overdose.

If convicted, the defendant faces up to five years in state prison on each of four counts of illegal distribution of a controlled substance.

Conn. Firm to Pay \$100,000 in Medicaid Billing Case

Following its guilty plea to provider fraud, the Connecticut-based Massey Analytical Labs, Inc. paid over \$100,000 in restitution and fines for its failure to disclose that it did not have written orders for certain lab services it performed for Medicaid beneficiaries.

As part of the civil agreement, Massey Analytical denied any wrongdoing and agreed not to apply for Medicaid provider status in the future.

Salem Insurance Exec. Charged with Stealing \$600,000 from UMass Student Accounts

In May, a Salem insurance executive and his company, Somers, Kitchen & Essler Insurance (SKE), were indicted on charges of stealing \$410,000 from accounts that pay for students' health insurance at the University of Massachusetts.

From the late 1970s to the summer of 1994, SKE held a contract with University Health Services at UMass-Amherst to manage the claims payment for the Student Supplemental Health Benefits Plan, which paid certain medical claims of students at the school. The defendant allegedly manipulated escrow accounts to steal the insurance account funds to operate SKE. He also allegedly wrote fraudulent checks to cash and used university funds to pay for personal expenses, such as his apartment rent. In addition, the defendant allegedly failed to file Massachusetts tax returns in 1990, 1991 and 1992, and filed a false return in 1993, in which he allegedly failed to report and pay taxes on more than \$25,000 in income.

The insurance agent is also under indictment for allegedly stealing \$197,000 in a different UMass scheme. The two sets of indictments allege the defendant stole more than \$600,000 from UMass insurance accounts.

The case was referred to Harshbarger's office by UMass-Amherst and its Internal Auditing Department.

Duxbury Nurse Indicted for Illegal Practice Four Nurses Aides Also Charged with Forging Licenses

As part of an increased enforcement effort against illegal nursing practices around the state, the AG's Medicaid Fraud Control Unit announced in August that it had brought a series of charges against a former Duxbury nurse for illegal practice. It also brought charges against four nurses aides who allegedly forged nursing certificates.

MFCU investigators alleged the former Duxbury nurse practiced as a registered nurse at five different South Shore health care facilities between 1988 and 1994, despite having had her registered nurse license suspended in 1983.

Her license was suspended as the result of alleged drug diversion at a Boston-area hospital. The indictments allege the defendant presented herself as a licensed registered nurse using a forged license.

In addition, three other individuals were charged with forging nurse's aide certificates. The four allegedly presented forged certificates in separate attempts to gain employment at facilities in Worcester, Westborough, Braintree and Burlington.

WORKERS' COMPENSATION

Workers' compensation premiums will fall in 1995 an average of 16.5 percent. The decrease follows last year's 10.2 percent drop, which was the only other rate reduction in the 83 years since Massachusetts first required employers to buy insurance to cover their employees injuries.

The rate drops of the last two years are largely attributed to sweeping workers' compensation reforms passed in the legislature in 1991 and the resolution of cases exemplified below:

Salisbury Man Jailed for Workers' Comp. Fraud

In August, a Salisbury man was sentenced to a year in the House of Correction after pleading guilty to insurance and workers' compensation fraud. The defendant was also ordered to pay \$31,879 in restitution to American Policyholders' Insurance Company in Wakefield.

An employee for Midas Muffler in Burlington, the defendant claimed total disability due to an injury he sustained on the job in February of 1991. Yet, despite his claim of total disability, the defendant worked full time for three separate employers in Beverly, Lawrence and Seabrook, NH. He used an alias to avoid detection and collected more than \$31,000 in benefits from Midas' insurer while working for the other employers.

The case was the result of a joint investigation by the AG's office, the Insurance Fraud Bureau and American Policy Holders Company.

Pittsfield Man Pleads Guilty to Workers' Comp. Fraud

In May, a Pittsfield man pled guilty to insurance fraud for claiming an injury he received while playing softball occurred at work. He was sentenced to three years probation and ordered to pay \$19,800 in restitution to his insurance company.

The defendant collected workers' compensation benefits from American Policyholders for an ankle injury he claimed he received while working at the Battery Outlet Store in Pittsfield. In reality, the defendant was injured after work hours at a softball game.

The case is the result of a joint investigation by the AG's office and the Insurance Fraud Bureau and was handled by the Attorney General's Western Mass. office.

Jail Inmate to Serve Additional Time for Workers' Comp. Fraud

An MCI-Shirley inmate currently serving time was found guilty in April of three counts of workers' compensation fraud. The inmate was sentenced to serve three to five years in MCI-Cedar Junction after his current sentence is completed. He was also ordered to return \$3,049 he fraudulently received from an insurance company.

The defendant appeared at a Dept. of Industrial Accidents (DIA) hearing in December, 1992, while in custody under his current sentence, and claimed he was injured in an industrial accident three years earlier while working for Security Burglar Alarms in Gardner. Security Burglar Alarms denied that the defendant had been their employee or that he had injured himself while under their employ. The DIA judge found in favor of the defendant; however, a Superior

Court jury found in April that the defendant had made false statements and misrepresentations in the course of his claim on at least three occasions.

The Mass. Insurance Fraud Bureau worked with the AG's office on this case.

NH Man Indicted on Workers' Comp. Charges

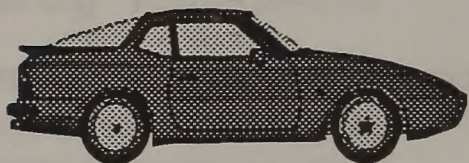
Also Failed to Pay Taxes Totalling Nearly \$900,000

Last month, the president of the New Hampshire-based Golden Labor Service, Inc., a temporary placement firm, was indicted on 21 counts of workers' compensation fraud and failure to pay employer taxes totalling almost \$900,000.

Golden Labor, which was doing business in Lowell, provided temporary workers to client companies throughout New England for assembly and clerical jobs. The defendant allegedly misclassified his workers as independent contractors instead of employees of his agency. By changing the classification, the defendant allegedly avoided paying \$446,319 in unemployment taxes and interest to the Department of Employment and Training from April of 1991 through June of 1995. He also allegedly diverted approximately \$426,463 from Liberty Mutual Insurance Company, the workers' compensation

Continued on page 9....

AUTO INSURANCE FRAUD



Four Indicted for Auto Insurance Fraud Totalling \$15,000

In June, four men were indicted for allegedly submitting nearly \$15,000 in fraudulent auto insurance claims for two accidents which never took place. The four allegedly presented claims to Commerce Insurance Company, Hanover Insurance Company and Safety Insurance Company.

Accident reconstructionists hired by the insurance companies discovered that the damage to the vehicles allegedly involved in the accidents did not match up.

An investigation by the Insurance Fraud Bureau of Massachusetts (IFB) found the defendants had allegedly used two auto dealers in Worcester to buy vehicles for the fabricated accidents and issue false car rental bills. Through checking Registry of Motor Vehicles records, IFB found that the alleged renter never owned the vehicle, and in the second instance, the car dealership who supposedly rented the car had previously gone out of business.

The four defendants face charges of motor vehicle insurance fraud, larceny and conspiracy.

Randolph Shop Owner Charged with Insurance Fraud Totalling \$57,000

In August, the owner/operator of a Randolph auto glass repair company was indicted on charges he allegedly collected nearly \$57,000 in illegal insurance payments by submitting false claims to seven insurance companies.

From 1990 through 1994, the owner/operator allegedly defrauded the insurance companies by submitting false claims that inflated the value of glass he installed in vehicles. In all, 166 fraudulent claims were allegedly made against Commercial Union, Hanover, Safety, Travelers, and USF&G insurance companies.

If convicted, the defendant faces up to eleven years in state prison plus fines.

Raynham Auto Body Shop Owner and Insurance Appraiser Indicted on 39 Counts of Fraud

The owner of Euro-Tech Auto Body in Raynham and a former appraiser for the Hanover Insurance Company were indicted in July for insurance fraud.

From 1989 through 1991, the appraiser for Hanover allegedly submitted a large number of false appraisals for vehicles that were supposedly being repaired at Euro-Tech. The indictments allege that the reports and photographs the appraiser submitted in connection with these appraisals were fraudulent because they purported to depict damage to motor vehicles that was either added, fabricated, or were not from automobiles he was assigned to appraise.

The Attorney General's office worked with the Insurance Fraud Bureau on the investigation of this case.

Framingham Auto Body Shop Charged with Insurance Fraud

Tofani's Collision and its owner were arraigned today on automobile insurance fraud charges stemming from allegations the shop staged accidents and added damage to cars.

Charged with 24 counts of motor vehicle insurance fraud, Tofani's Collision allegedly participated in schemes which include faking accidents for willing customers who weren't covered for the accidents they actually had, and adding damages to cars brought to the shop before making them available to insurance appraisers. In addition, Tofani's also allegedly submitted false rental car charges.

Customers willingly involved with the schemes are also being charged by the AG's office as accomplices in the case.

Workers' Comp. Continued...

provider, by supplying it with false information regarding the number of employees at his agency.

A cross-match system between the Department of Revenue and the Department of Employment and Training helped to detect the fraud. The AG's Division of Employment and Training is prosecuting the case.

Former City Employee Indicted for Workers Comp. Fraud

A bus driver for the City of Boston was indicted in May on charges of workers' compensation fraud for allegedly working at a private bus company while he was receiving disability benefits from the city.

In 1991, and again in 1992, the defendant took disability leaves for injuries received on the job. During both those leaves, he received temporary total disability benefits. In 1993, he again attempted to collect disability benefits for a third injury.

Following an investigation by the AG's Civil Investigation Division, it was discovered that the defendant was allegedly working for a private bus company while he was receiving disability payments from the City of Boston.

The defendant allegedly collected a total of more than \$16,000 in benefits during the 1991 and 1992 disability leaves. If convicted, he faces possible jail time for counts of larceny, workers' compensation fraud, and making a false claim against the Commonwealth.

UNEMPLOYMENT BENEFITS FRAUD

Sandwich Contractors Indicted for Failure to Pay \$18,000 in Unemployment Taxes

In May, M.E.C. of Sandwich and its officers were indicted on multiple counts of fraud for alleged violations that resulted from work performed on an Attleboro school and the Weston Public Library.

Two M.E.C. officers were charged with a total of 25 counts of failure to pay unemployment contributions as well as counts for failure to pay prevailing wages, workers' compensation fraud, and larceny.

The president of the company, if convicted, faces up to one year in prison, a \$10,000 fine and restitution for each count of failure to pay unemployment taxes. The second officer involved faces a \$10,000 fine for each count of failure to pay the prevailing wage rate. M.E.C. would also be debarred from working on public projects for six months.

Marshfield Man Indicted in \$12,240 Unemployment Scheme

In April, a Marshfield man was indicted for allegedly defrauding the Department of Employment and Training (DET) out of \$12,240 worth of unemployment benefits. The defendant allegedly used three different social security numbers and dates of birth to disguise his true identity from the DET and insure his receipt of additional benefits from September, 1989 to July, 1991. He allegedly worked for Aextra Corp. of Cambridge while he collected the benefits. He also

allegedly claimed that he had been laid off from his own company, which had been defunct for several years prior.

The defendant faces up to five years in state prison, maximum fines of \$1,000 to \$25,000 per count, and restitution to the DET.

Former DET Employee Pleads Guilty to Fraud Charges

A former DET employee pled guilty last month to charges he illegally received more than \$13,000 in unemployment benefits while employed at two different agencies. The defendant allegedly defrauded the DET out of \$13,679 over a one-year period, from 1991 to 1992, by making false statements - including a denial that he was employed - in order to remain eligible for benefits. The scheme was revealed while the defendant was employed by the DET.

The defendant was ordered to pay full restitution to the DET and was sentenced to four years probation.

Cab Driver Convicted on Fraud Charges

A Boston cab driver was convicted in July of fraudulently submitting a lost wage claim under his auto insurance policy and illegally collecting 59 weeks of unemployment benefits. The driver submitted a claim for five months of lost wages due to a car accident, despite missing only ten days from work.

The defendant was given a suspended sentence and ordered to pay \$20,000 in restitution to the state. He must also perform 150 hours of community service.

WAGE ENFORCEMENT

The cases outlined below are examples of dozens handled over the last six months by the AG's Fair Labor and Business Practices Division and are representative of the office's efforts to enforce wage and labor laws.

Criminal Complaints Issued Against Teen Work Program for Child Labor and Wage Law Violations

In August, criminal complaints were issued against the Watertown-based New England Teens for alleged violations of child labor laws and failure to pay the minimum wage. New England Teens claims to conduct confidence-building job and recreation programs for teenagers; however, it is alleged that the main activity of the company is to employ minors to sell candy on the street.

The complaints alleged that minors were hired without proper licenses or work permits normally issued by

a school superintendent. In addition, the company allegedly employed minors past 8 p.m. and paid less than the minimum wage of \$4.25-per-hour.

If convicted, the owner of New England Teens faces a maximum six month jail term for each of seven counts of employing minors to peddle and hawk without a license. He also faces penalties for charges of employing a minor after 8 p.m., employing a minor without permits, and paying less than the minimum wage.

Malden Contractor Pleads Guilty to Wage Violation

In July, Albanese D&S Incorporated pled guilty to violating the state's prevailing wage laws. Albanese machine operators were entitled to hourly rates of \$8 and \$9-per-hour more than the wage they were being paid for their work on the Hopkinton lateral sewer and pump projects.

Albanese D&S must pay its employees \$5,454 in restitution for back wages owed from the public works project in Hopkinton and has also been barred from public works projects for six months.

Restaurant Owners Plead Guilty to Minimum Wage Violations

Last month, two owners of a Revere restaurant pled guilty to 10 counts of violations of the state minimum wage, employment discharge and fraudulent record laws.

Owners of the August Moon Restaurant agreed to pay more than \$5,000 in back pay owed to two former employees who were paid below the minimum wage. They also pled guilty to falsifying employee records,

failure to provide true and accurate employee records and wrongfully firing an employee for retaliatory purposes.

The two employees were paid less than \$50 per month despite working more than 50 hours a week, and one of those two had been fired after filing a complaint with state officials.

Taunton Contractor Pleads Guilty to Wage Violations; Pays \$86,000 in Back Wages

In September, the Massasoit Electric Company of Taunton and its president pled guilty to prevailing wage violations and were debarred from bidding on public projects for six months. They have also issued a check for \$86,000 to be distributed to underpaid employees for work performed on a Framingham fire station and an Attleboro school. Massasoit's president will also be on probation until January of 1996.

The wage violations were discovered when one of the workers complained to the AG's office about payment for only three-fourths of the hours worked on one of the projects.

Second Taunton Contractor Debarred for Wage Violations

G. Lopes Construction of Taunton admitted last month to sufficient facts for a guilty finding for alleged violations of the state's prevailing wage laws. The contractor allegedly paid as much as \$10-an-hour less than the state mandated rates while working on the Dighton sewer line project in December of 1992 through December 1993.

Lopes has paid nearly \$40,000 in back wages to 24 employees involved in the Dighton project.

The prevailing wage law in Massachusetts requires that the prevailing hourly wage be paid to employees working on publicly-funded projects.

Prevailing Wage continued...**Tewksbury Contractors Indicted for Alleged Fraud on Three Projects**

In June, S&C Concrete Floors & Company, Inc. of Tewksbury and its officers were indicted for 27 counts of fraud in connection with public works projects at three Lowell schools. The charges included alleged violation of the prevailing wage law, failure to provide payroll records or unemployment contributions, and failure to provide workers compensation insurance.

The alleged violations occurred in 1992, while S&C was working on three different Lowell school projects. Despite a prevailing wage rate of \$32.70 per hour, S&C allegedly paid its workers only \$10 to \$12 per hour. In addition, S&C allegedly failed to produce payroll records upon request and kept records that did not accurately reflect its employees' hours or pay. Company officers allegedly failed to pay taxes to the DET in 1993 and 1994, and allegedly received unemployment benefits by making misrepresentations.

Turnpike Project Contractor Cited For Wage Violations

In June, John T. Callahan & Sons of Bridgewater was ordered to post a \$22,000 bond for failure to pay construction workers prevailing wages for work on a Turnpike interchange job in Hopkinton.

The AG's Fair Labor and Business Protection Bureau conducted an investigatory hearing over allegations of wage violations by the contractor. The investigation determined that iron workers were misclassified as laborers and carpenters and were also being underpaid by about \$7.50 per hour. In addition, workers were not paid for 252 hours of Saturday overtime work.

The AG's office ordered the \$22,000 penal bond to be posted by July 19, 1995 or the work would be halted on the project.

TAX EVASION

The Commonwealth loses \$2 billion a year to tax evaders. Schemes which involve false out-of-state residences, illegal uses of dealer or repair plates on motor vehicles, and the payment of "under the table" wages to workers by employers are examples of how unscrupulous residents try to skirt the law. The cases below highlight some of the efforts by the AG's office to halt such activities.

Fugitive Sentenced to Four Plus Years in Jail

In June, a tax fugitive who fled the country to avoid paying \$300,000 in taxes was captured and sentenced to four-and-a-half years behind bars. The former Sherborn resident was found guilty in 1990 of 50 tax evasion charges stemming from his failure to pay sales taxes on \$6 million in sales from his business. However, after posting the \$2,000 bail money, he abandoned his home and the chain of pet stores he owned and disappeared into Canada.

The defendant was located in Montreal and extradited to Massachusetts for sentencing.

Securities Broker Pleads Guilty to Tax Evasion

A former Westminster securities broker who stole more than \$150,000 in investment proceeds from investors pled guilty last July to criminal charges of tax evasion and selling unregistered securities.

From 1987-1990, the broker convinced clients to invest \$156,000 in projects he was developing. The investments, however, did not exist, and the broker instead used the money for his own personal use.

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Tax cases continued...

The broker was ordered to pay full restitution to all his investment victims and sentenced to five years probation. Harshbarger's office recommended a sentence of three to five years in prison.

Accountant Pleads Guilty to Criminal Tax Charges

A Holden accountant pled guilty last spring to charges that he diverted more than \$800,000 from his employer over a four-year period. An accountant for Govoni Construction in Worcester, the defendant diverted company funds into his personal checking account from 1987 through 1990. He also failed to report the funds as income on his state income tax forms, thereby evading \$35,000 in taxes. The defendant recently completed a one year prison sentence on similar charges.

A judge sentenced the defendant to a three-to-five year sentence, suspended for three, with probation and full restitution.

April Sweep of Tax Indictments Nets Results

In April, Attorney General Harshbarger and Revenue Commissioner Mitchell Adams sent a clear message about the enforcement of tax laws by announcing the indictment of ten companies and individuals who tried to evade paying their taxes.

Criminal tax charges were filed against a strip joint owner, a prison guard, a behavioral therapist and

Economic Crimes

Employee Pleads Guilty to Embezzling from Hyde Park Company

In August, a Canton man pled guilty to charges he embezzled more than \$45,000 from Parker-Danner Corporation, the Hyde Park construction equipment leasing company for which he worked. From 1993 to 1994, the defendant, who was president, treasurer, clerk and director of the company prior to his termination, embezzled money from Parker-Danner by charging personal expenses on his corporate credit card. He also had the company pay for contracting work performed at his home and then altered company records to hide the thefts.

The defendant received a two year suspended sentence, during which he must serve 400 hours of community service, and pay a \$5,000 fine. Full restitution has already been paid.

Stockbroker Returned to Massachusetts After Fleeing Fraud Charges

In July, a Swampscott stockbroker, who fled to Arizona after his arraignment on charges he stole approximately \$140,000 from 13 people, was returned to the state and held on \$50,000 cash bail. The stockbroker fled when released in January on his own personal recognizance. State troopers assigned to Harshbarger's office located the defendant in Arizona and arrested him.

he initial charges against the defendant alleged that he defrauded friends and co-workers by convincing them to invest in securities for a non-existent computer firm, a high-tech company in Utah, and a bank. None of the alleged victims received any of the promised profit, and most did not receive any of their original investment back. In addition, it is alleged that the defendant presented himself to his clients as a licensed stockbroker when in fact his registration with the Secretary of State expired in December 1989.



a doughnut shop owner among others, for their failure to pay a collective total of more than \$175,000 in unpaid meals, sales, fuel and income taxes.

To date, one case has been resolved with a sentencing of one-to-five years in state prison. The other cases are still pending.

Each of the ten cases was developed by the Department of Revenue's Criminal Investigations Bureau. Since 1986, the DOR has funded a Tax Prosecution Unit within the Attorney General's office.

Fraud Against Charities

Cardiologist Found Guilty of Embezzling \$117,777 From Hospital Foundation

Following a three week trial, a former chief of cardiology at Children's Hospital was found guilty last May on charges of embezzling \$117,777 from the hospital at which he was employed.

The defendant used a variety of schemes to steal money from the Boston Children's Heart Foundation, Inc., which is affiliated with the Children's Hospital, and then

spent it on personal expenses. Schemes included paying the salary of the head of a new biotechnology company, in which he had a personal interest, with funds from the foundation, and depositing checks for the Cardiovascular Surgical Foundation into his own personal account, and taking money from the Children's Heart Foundation to give to a Boston museum

which solicited private donations.

The defendant was sentenced to serve one year in prison. He was also given a suspended sentence and ordered to perform 40 hours a week of community service during that time. Finally, he must also pay restitution to the hospital.

Husband and Wife Indicted for Alleged Embezzlement from Juvenile Diabetes Foundation

In August, a Randolph couple were indicted on 12 charges of embezzling more than \$270,000 from the Juvenile Diabetes Foundation.

The husband and wife team founded the South Shore Chapter of the Foundation in the 1970s and held leadership positions in the organization when the chapter merged with the Framingham branch in the late 1980s. The joint venture was then renamed the Bay State Chapter.

The indictments allege that both defendants repeatedly drew checks in excess of \$1,000 made payable to themselves on chapter accounts during a period from 1990 through 1994. The wife is also accused of forging the signature of a former official on checks drawn on an account that required two signatures. The checks were allegedly deposited into the defendants' accounts and used to pay for personal expenses such as mortgage payments and a down payment on a car.

If convicted, they face up to five years in state prison on each of the larceny charges. The wife also faces up to ten years in prison on a forgery charge.

Three Steps A Charity Can Take to Protect Itself From Embezzlement

- Vigilant oversight by the board of directors of the charity. Consider creating an audit committee to review each month's checks and expenses.
- Have the financial records audited annually, as required of organizations that raise more than \$250,000. While this can be expensive, some accountants are often willing to perform audits at a reduced cost or at no cost as an "in-kind contribution."
- Buy insurance coverage to replace lost or stolen money. Insurance costs anywhere from \$100 to several hundred dollars per year, depending on how much money an organization wants to protect. Buying insurance is the least common tactic, but is considered a good, careful step to take.

Man Convicted of Scamming 24 Sears Stores

In July, a Norfolk man pled guilty to charges of larceny and counterfeiting a driver's license in a scheme to defraud 24 Sears stores out of thousands of dollars.

The defendant pled guilty to charges that he forged receipts and used a counterfeited driver's license in his schemes to defraud Sears stores in five New England states. A former accountant, the defendant obtained receipts for auto repairs performed by Sears. By altering the original receipts and falsifying blank receipts he

obtained, the defendant redeemed the receipts for merchandise credits at various stores in New England, bought thousands of dollars in merchandise with the credits, and then returned his purchases to different Sears stores for cash. The defendant also tried to recruit individuals to expand the scheme; however, one of the prospective recruits was an undercover state trooper assigned to the AG's office.

The defendant was sentenced to two years in jail on a larceny

charge; one year, from and after, on a charge of receiving stolen property; one year concurrent on a forgery charge; and two years probation on an uttering charge.

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